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Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

OSWALDO ENRIQUE TOBAR,	)	
ET AL,	)	
	)	
Plaintiffs,	)	<b>No. 07-CV-00817-WQH-(JLB)</b>
	)	
v.	)	<b>PLAINTIFFS' EMERGENCY</b>
	)	<b>RULE 37 AND RULE 26(b)</b>
UNITED STATES OF AMERICA,	)	<b>MOTION OR IN THE</b>
	)	<b>ALTERNATIVE PLAINTIFFS'</b>
Defendant.	)	<b>MOTION FOR A</b>
	)	<b>CONTINUANCE</b>
_____	)	

TO THE HONORABLE JUDGE OF SAID COURT:

Come now Plaintiffs who file this their Emergency Rule 37 and Rule 26(b) motion seeking redress from the Court for abuse of discovery and/or in the alternative, seeking a continuance to further complete discovery and be ready for trial with all the necessary and relevant evidence.

**I.**

Plaintiffs have recently obtained a written agreement concerning this case between the governments of the United States and Ecuador which heretofore has not been produced by the Defendant. (See attached Exhibit)

**II.**

The grounds for this motion, as more fully set forth in the Plaintiffs' memorandum and brief, are the documents and information sought in written requests for production, from interrogatories and in depositions and constitute matter relevant to the subject matter involved in the pending action within the meaning of Rule 26 of the Federal Rules of Civil Procedure which the Defendant has failed on numerous occasions to produce.

**III.**

Alternatively, and as part of the above motion, Plaintiffs need additional time to accomplish further discovery. Since this new document, see attached, was so recently acquired, Plaintiffs need the trial date to be continued until they have had a fair and adequate time to conduct discovery including re-deposing certain government witnesses with said new documentation previously withheld and deposing the signees of the agreement.

**IV.**

Since this new information is so compelling and was obviously not provided to the Plaintiffs, this Court or the 9<sup>th</sup> Circuit Court of Appeals, Plaintiff would ask the Court for an emergency hearing to obtain the Court's guidance as to how to proceed with the case.

**V.**

**CERTIFICATE OF CONFERENCE**

The undersigned conferred with counsel for Defendant and he is opposed to this motion.

Respectfully submitted,

**BOYAKI LAW FIRM**

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By: /s/ Walter L. Boyaki

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**CERTIFICATE OF SERVICE**

I, **WALTER L. BOYAKI**, do hereby certify that a true and correct copy of the foregoing instrument was electronically filed with the Clerk of the Court using the CM/ECF System which will transmit notification of such filing to **R. MICHAEL UNDERHILL** and **VICKEY L. QUINN**, on this 24<sup>th</sup> day of September, 2015.

/s/ Walter L. Boyaki  
**WALTER L. BOYAKI**